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PCT/DE2003/002039

## PATENT COOPERATION TREATY



Translation

## PCT

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

(PCT Article 36 and Rule 70)

Applicant's or agent's file reference 2002P09872WO	<b>FOR FURTHER ACTION</b> See Notification of Transmittal of International Preliminary Examination Report (Form PCT/IPEA/416)	
International application No. PCT/DE2003/002039	International filing date (day/month/year) 18 June 2003 (18.06.2003)	Priority date (day/month/year) 20 June 2002 (20.06.2002)
International Patent Classification (IPC) or national classification and IPC H04L 12/28		
Applicant SIEMENS AKTIENGESELLSCHAFT		

1. This international preliminary examination report has been prepared by this International Preliminary Examining Authority and is transmitted to the applicant according to Article 36.
2. This REPORT consists of a total of 8 sheets, including this cover sheet.  
☐ This report is also accompanied by ANNEXES, i.e., sheets of the description, claims and/or drawings which have been amended and are the basis for this report and/or sheets containing rectifications made before this Authority (see Rule 70.16 and Section 607 of the Administrative Instructions under the PCT).

These annexes consist of a total of \_\_\_\_\_ sheets.

3. This report contains indications relating to the following items:

- I ☒ Basis of the report
- II ☐ Priority
- III ☐ Non-establishment of opinion with regard to novelty, inventive step and industrial applicability
- IV ☐ Lack of unity of invention
- V ☒ Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement
- VI ☐ Certain documents cited
- VII ☐ Certain defects in the international application
- VIII ☐ Certain observations on the international application

Date of submission of the demand 12 December 2003 (12.12.2003)	Date of completion of this report 14 December 2004 (14.12.2004)
Name and mailing address of the IPEA/EP	Authorized officer
Facsimile No.	Telephone No.

# INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.

PCT/DE2003/002039

## I. Basis of the report

### 1. With regard to the elements of the international application:\*

- ☐ the international application as originally filed
- ☒ the description:  
 pages \_\_\_\_\_ 1-8 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the claims:  
 pages \_\_\_\_\_ 1-14 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, as amended (together with any statement under Article 19  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☒ the drawings:  
 pages \_\_\_\_\_ 1/2-2/2 \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_
- ☐ the sequence listing part of the description:  
 pages \_\_\_\_\_, as originally filed  
 pages \_\_\_\_\_, filed with the demand  
 pages \_\_\_\_\_, filed with the letter of \_\_\_\_\_

### 2. With regard to the language, all the elements marked above were available or furnished to this Authority in the language in which the international application was filed, unless otherwise indicated under this item.

These elements were available or furnished to this Authority in the following language \_\_\_\_\_ which is:

- ☐ the language of a translation furnished for the purposes of international search (under Rule 23.1(b)).
- ☐ the language of publication of the international application (under Rule 48.3(b)).
- ☐ the language of the translation furnished for the purposes of international preliminary examination (under Rule 55.2 and/ or 55.3).

### 3. With regard to any nucleotide and/or amino acid sequence disclosed in the international application, the international preliminary examination was carried out on the basis of the sequence listing:

- ☐ contained in the international application in written form.
- ☐ filed together with the international application in computer readable form.
- ☐ furnished subsequently to this Authority in written form.
- ☐ furnished subsequently to this Authority in computer readable form.
- ☐ The statement that the subsequently furnished written sequence listing does not go beyond the disclosure in the international application as filed has been furnished.
- ☐ The statement that the information recorded in computer readable form is identical to the written sequence listing has been furnished.

### 4. ☐ The amendments have resulted in the cancellation of:

- ☐ the description, pages \_\_\_\_\_
- ☐ the claims, Nos. \_\_\_\_\_
- ☐ the drawings, sheets/fig \_\_\_\_\_

### 5. ☐ This report has been established as if (some of) the amendments had not been made, since they have been considered to go beyond the disclosure as filed, as indicated in the Supplemental Box (Rule 70.2(c)).\*\*

\* Replacement sheets which have been furnished to the receiving Office in response to an invitation under Article 14 are referred to in this report as "originally filed" and are not annexed to this report since they do not contain amendments (Rule 70.16 and 70.17).

\*\* Any replacement sheet containing such amendments must be referred to under item 1 and annexed to this report.

## INTERNATIONAL PRELIMINARY EXAMINATION REPORT

International application No.  
PCT/DE 03/02039

## V. Reasoned statement under Article 35(2) with regard to novelty, inventive step or industrial applicability; citations and explanations supporting such statement

## 1. Statement

Novelty (N)	Claims	2-5, 7-13	YES
	Claims	1, 6, 14	NO
Inventive step (IS)	Claims		YES
	Claims	1-14	NO
Industrial applicability (IA)	Claims	1-14	YES
	Claims		NO

## 2. Citations and explanations

This report makes reference to the following document:

D1: US 2002/0003481 A1

1. The present application does not meet the requirements of PCT Article 33 because the subject matter of claim 1 is not novel.

Document D1 (see paragraphs 18-30 and figure 2) is considered to constitute the prior art closest to the subject matter of claim 1 and discloses (the references in parentheses are to that document) a method of wireless communication between radio stations, in which method a purely bilateral communication connection or a purely bilateral communication relationship is to be established between a first radio station and a single radio station from a group of second radio stations (paragraph 21 and figure 2), one operating parameter or a plurality of operating parameters of the first radio station being modified with the aim of influencing transmission conditions between the radio stations in such a way that, as a result of the modification of at least one operating

parameter, the transmission properties of only one radio connection between the first radio station and only one second radio station meet a particular quality criterion (paragraphs 22, 23 and 25).

Since document D1 discloses all the features of claim 1, the subject matter of claim 1 is not novel.

Claim 1 therefore does not meet the requirements of PCT Article 33(2) and consequently, the requirements of PCT Article 33(3) are also not met.

2. Document D1 (see, in particular, the first four sentences of paragraph 25) indicates that the **bilateralism** between the radio stations is a **result** of the parameter modification. In the embodiment known from D1, power is increased starting from zero and therefore there can be no connection between the radio stations before this parameter is modified. Power is then further increased until a connection is established.

3. Independent claims 6 and 14 constitute a reformulation of claim 1 in order to define the corresponding use and device required to implement the process defined in claim 1. The same arguments with respect to novelty and inventive step apply to these claims.

Claims 6 and 14 therefore also fail to meet the requirements of PCT Article 33(2) and 33(3).

4. Dependent claims 2-5 and 7-13 do not contain any additional features which, in combination with the features of any claim to which they refer, could

lead to subject matter involving an inventive step because the subject matter of these claims can either be directly derived from the disclosure in document D1 (see paragraph 25 for claims 2, 5, 11 and 12; paragraph 23 for claims 7 and 9; paragraph 18 for claim 8) or represent simple design details which are generally known to a person skilled in the field of telecommunications.

Claims 2-5 and 7-13 therefore do not meet the requirements of PCT Article 33(3).

Further observations:

1. The independent claims are not drafted in the correct two-part form recommended in PCT Rule 6.3(b).
2. Dependent claims 10-13 relate to a method and not to a use and should therefore either be placed after claim 5 or be reformulated as use claims.
3. Pursuant to PCT Rule 5.1(a)(ii), the description should have cited document D1 and indicated the relevant prior art disclosed therein.